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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Myanmar

Report of the Special Rapporteur, Mr. Rajsoomer Lallah, submitted in accordance with Commission on Human Rights resolution 1997/64

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Introduction

1. The mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar has been described in each of the Special Rapporteur's previous reports to the General Assembly (annexes to documents A/47/651, A/48/578, A/49/594 and Add.1, A/50/568, A/51/466 and A/52/484) and to the Commission on Human Rights (E/CN.4/1993/37, E/CN.4/1994/57, E/CN.4/1995/65 and Corr.1, E/CN.4/1996/65 and E/CN.4/1997/64). The mandate, initially articulated by the Commission in its resolution 1992/58 of 3 March 1992 and extended most recently in resolution 1997/64 of 16 April 1997 (approved by the Economic and Social Council in its decision 1997/272 of 22 July 1997), required the Special Rapporteur to establish or to continue direct contact with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the establishment of a constitution of democratic governance, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar.

2. In its resolution 1997/64, the Commission called upon the Government of Myanmar to cooperate fully with the relevant mechanisms of the Commission, in particular the Special Rapporteur, and to ensure his access to Myanmar, without preconditions, in order to allow him to discharge his mandate fully, including through access to any person whom he might deem it appropriate to meet in the performance of his mandate; requested the Secretary-General to give all necessary assistance to the Special Rapporteur; and requested the Special Rapporteur to report to the General Assembly at its fifty-second session and to the Commission at its fifty-fourth session.

3. The priority concerns of the international community with regard to the situation of human rights in Myanmar are referred to in the resolutions adopted by the various competent organs of the United Nations over the past six years, in particular General Assembly resolution 52/137 and Commission resolution 1997/64, which are the most recent. These concerns may be summarized, in substance, as follows:

(a) The continuing violations of human rights in Myanmar, including extrajudicial, summary or arbitrary executions; killings of civilians; torture; arbitrary arrest and detention; deaths in custody; absence of due process of law, including trial of detainees in secrecy without proper legal representation; severe restrictions on freedom of opinion, expression, assembly and association; violations of freedom of movement; forced relocation; forced labour by children as well as adults, including portering for the military; abuse of women and children by government agents; and the imposition of oppressive measures directed in particular at ethnic and religious minorities;

(b) The absence of significant steps towards the establishment of democratic governance as expressed by the will of the people at the elections of 1990;

(c) The exclusion of the representatives democratically elected in 1990 from participation in the proceedings of the National Convention, the

severe restrictions on delegates, including members of the National League for Democracy (NLD), who have withdrawn and subsequently were formally excluded from the sessions of the Convention and who were unable to meet or distribute their literature, the adoption by the Convention of a basic principle conferring on the armed forces (Tatmadaw) a leading role in the future political life of the State and the conclusion that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

(d) The restrictions on the freedom of expression, association, assembly and movement placed upon Daw Aung San Suu Kyi and other political leaders and the continued arrests and harassment of members and supporters of the National League for Democracy, trade unionists and students for peacefully exercising their right to freedom of expression, assembly and association, forced resignations of elected representatives, the continued attacks against Daw Aung San Suu Kyi and the closure of all universities and colleges following the student demonstrations in December 1996;

(e) The forced relocation and other violations of the rights of persons belonging to minorities, resulting in a flow of refugees to neighbouring countries, and the continuing attacks on groups, resulting in death, destruction and displacement;

(f) The violation of children's rights in contravention of the Convention on the Rights of the Child, in particular through the lack of conformity of the existing legal framework with the Convention, by the systematic recruitment of children into forced labour and by discrimination against children belonging to ethnic and religious minority groups.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

4. On 12 November 1997, the Special Rapporteur presented his interim report on the situation of human rights in Myanmar to the fifty-second session of the General Assembly (A/52/484, annex). While in New York, he met with several representatives of Governments and non-governmental organizations as well as individuals who imparted their views and information on the situation of human rights in Myanmar.

5. It will be recalled that since his appointment, the Special Rapporteur has sought the cooperation of the Government of Myanmar and has requested their authorization to travel to Myanmar in order, inter alia, to examine the situation in situ and to meet with appropriate government representatives as well as other persons relevant to the fulfilment of his mandate so as to ensure that the General Assembly and the Commission on Human Rights are presented with a comprehensive assessment of the situation of human rights in Myanmar.

6. It will also be recalled that, following the submission of the first report of the Special Rapporteur to the General Assembly in November 1996, the Permanent Representative of the Union of Myanmar expressed his disagreement with the assessment made by the Special Rapporteur. He indicated, however, that the Special Rapporteur would be authorized at an appropriate time to visit Myanmar. In April 1997, at the fifty-third session

of the Commission, the Permanent Representative of Myanmar gave similar indications. Despite these statements, no steps have so far been taken by the Myanmar authorities to authorize such a visit. More recently, in November 1997, during the debate on the human rights situation in Myanmar at the General Assembly, Ambassador U Pe Thein Tin, Permanent Representative of Myanmar, while again challenging the assessment made by the Special Rapporteur, nevertheless reiterated in his intervention that the Special Rapporteur would have the opportunity to visit Myanmar at a time deemed appropriate. The Special Rapporteur regrets that there have been no developments on this issue and that, in the more than two years since his appointment, he has not been given the opportunity to visit the country as requested by the General Assembly and the Commission on Human Rights.

7. The Special Rapporteur understands that the criticism levelled by the authorities of Myanmar against the reports of the Special Rapporteur are based, in large part, on the ground that his reports "reflect mainly the views of those who are opposing the Government for reasons totally unconnected with the issue on human rights". It stands to reason that if the General Assembly and the Commission are to benefit in a meaningful way from a serious assessment of that criticism, it is essential that the Myanmar authorities agree to a visit by the Special Rapporteur to the country.

8. It must be noted that it is not the Special Rapporteur who is avoiding discussion of human rights complaints with representatives of the Government of Myanmar. On the contrary, it is precisely the Government of Myanmar which refrains from doing so while continuing to refuse him direct access to the country and the people of Myanmar. The Special Rapporteur is only able to meet with people outside Myanmar, in particular the great number of displaced persons on the Thai side of the Thailand-Myanmar border areas and whose complaints the Special Rapporteur feels bound to reflect in his reports to the Commission and the General Assembly. The Special Rapporteur is firmly convinced that it is in the interest of the authorities themselves, in addition to that of the international community as represented in the United Nations, that such a visit should take place. This would also clearly demonstrate the commitment of the Government of Myanmar to cooperate with the United Nations in accordance with its obligations under the Charter.

9. Notwithstanding the absence of cooperation on the part of the Government of Myanmar, the Special Rapporteur has received much assistance and information from governmental, intergovernmental and non-governmental sources. He has also received information from individuals connected in one way or another with the situation in Myanmar. He has also received several well-documented reports describing the situation in Myanmar, particularly in relation to the matters over which the General Assembly and the Commission on Human Rights have expressed concern. No less importantly, he has had direct contact with displaced persons along the Thailand-Myanmar border who have fled Myanmar and from whom he continues to receive information.

10. The present report is based upon information received by the Special Rapporteur up to 19 December 1997 and is to be read in conjunction with the Special Rapporteur's report to the General Assembly. The present report

updates certain matters discussed before the General Assembly while treating some issues not addressed there. In response to operative paragraph 4 (a) of Commission resolution 1997/64, the Special Rapporteur has included a chapter on women based on such information as was available to him.

II. THE EXERCISE OF CIVIL AND POLITICAL RIGHTS

A. The reconstitution of SLORC

11. On 15 November 1997, the State Law and Order Restoration Council (SLORC) was dissolved and reconstituted as the State Peace and Development Council (SPDC), consisting of 19 members (SLORC Notification No. 1/97 dated 15 November 1997). The expressed purpose was to "ensure the emergence of an orderly or disciplined democracy" and to establish a "peaceful and modern State ... in the interest of all the national peoples". The former top four SLORC leaders, Senior General Than Shwe, General Maung Aye, Lieutenant-General Khin Nyunt and Lieutenant-General Tin Oo, retained their positions within the SPDC. In addition, Lieutenant-General Win Myint was appointed SPDC's Secretary Three. Other members include the Commanders-in-Chief of the Navy and the Air Force, and the 12 Army Regional Commanders. SPDC Notification No. 2/97, also dated 15 November 1997, established a 40-member Cabinet. Two new ministries, the Ministry of Military Affairs and the Ministry of Electric Power, were created. SPDC Notification No. 3/97, of the same date, announced the formation of a 14-member Advisory Group. Its members consist of the 13 former SLORC members who had lost their positions both within the regime and the Cabinet. The fourteenth member is Major-General Soe Myint.

B. Rights pertaining to democratic governance

12. In introducing his report to the General Assembly, the Special Rapporteur indicated that he had observed the beginnings of a positive attitude with respect to restrictions on political parties, especially in relation to the activities of the National League for Democracy (NLD) and its right to hold meetings. He welcomed the change on the part of the authorities. However, it would appear that this change is of a purely formal and limited nature given the virtually complete control which the authorities seem to exercise over the venue of meetings, the measure of control over the agenda of the meetings, the strict limitations on the number of people allowed to attend, and the monitoring of the meetings, as the following paragraphs indicate.

13. On 27-28 September 1997, unlike previous years, the NLD was allowed by the authorities to hold a national convention, commemorating its ninth anniversary, at the residence of its General Secretary Daw Aung San Suu Kyi. About 600 delegates attended the two-day meeting and no arrests were known to have taken place. However, the Special Rapporteur received reports of a great number of NLD members who were denied access, by military intelligence personnel and riot police, to Daw Aung San Suu Kyi's compound. On 28 September 1997, some 30 NLD members were forced into trucks by the security forces, driven for an hour outside the capital and dropped off at the roadside in groups of two or three to make their way back.

14. It would appear that when the NLD requests permission to hold a meeting, authorization is granted only for the specific purpose for which the meeting is taking place; no other subject of discussion would appear to be allowed. On 10 October 1997, the authorities permitted the NLD to hold a religious ceremony and about 200 dignitaries attended the function at the General Secretary's home. Official Information Sheet No. A-0171, dated 16 October 1997, stated that "the relevant authorities have granted permission to the party to perform the traditional religious ceremony with the expectation that the ceremony will be a purely religious activity and totally none other".

15. On 28 October 1997, an NLD delegation consisting of Chairman U Aung Shwe, Co-Chairmen U Kyi Maung and U Tin Oo, and General Secretary Daw Aung San Suu Kyi planned to meet with local members of the NLD at their office in Mayangone township, north of Yangon. It was reported that the authorities took measures to prevent the meeting from taking place and, upon arrival, the NLD delegation found the office empty and returned home. According to SLORC Information Sheet Nos. A-0186 and A-0187, dated 28 October 1997, "the NLD representatives have also been advised (by the authorities) on grounds of security and stability reasons that such activities (rallies) should be held at Daw Aung San Suu Kyi's university compound".

16. Every time the authorities allow a meeting to take place, they also always specify the number of people allowed to attend. For the ceremony celebrating the ninth anniversary of the NLD, the authorization granted by the authorities dated 26 September 1997 limited the attendance to 300 participants. For the meeting celebrating the religious ceremony held on 10 October 1997, the authorities imposed a condition that the "number of invitees be kept at (100) persons" (see Official Information Sheet No. A-0171).

17. Finally, the meetings are closely monitored by the authorities and the people attending the meetings are systematically registered. On 24 November 1997, a ceremony to celebrate the seventy-seventh anniversary of the National Day was held at the residence of Daw Aung San Suu Kyi. On that occasion, it was reported to the Special Rapporteur that persons attending the ceremony had to wait for half an hour at the entrance to University Avenue, where the authorities checked their invitations, registered their names and took their photographs. It is understandable that there is a need for the authorities to facilitate the smooth flow of road traffic in that neighbourhood and to take appropriate measures to ensure that the persons attending the meeting conduct themselves in a manner which does not disturb public order. Nevertheless, the registration of persons attending and the taking of photos are entirely unnecessary. On the contrary, such actions are of a dissuasive nature and a clear restriction on the normal exercise of the basic freedom of assembly and personal freedoms.

18. Almost two years after her release from house arrest, the General Secretary of the NLD is reported to continue to face serious restrictions on her freedom of movement and her social and political activities, including constant harassment and vilification. The weekend addresses from her home were stopped, barricades have been erected in the street giving access to her home, and both she and the people who visit her are kept under constant police

or military surveillance. According to a statement released by SLORC on 24 October 1997, Daw Aung San Suu Kyi's movements will not be restricted provided she conducts her political activities "within the framework of the law. ... There is no government restriction on her movements. In fact, the authorities concerned have only requested her to be careful in her activities outside her compound for her own security, and conduct political activities within the framework of the law and within the established regulations governing such activities so that peace, tranquillity and stability will not be disturbed". This statement brings into sharp focus the question whether the relevant laws and regulations themselves violate the exercise of public freedom which a political figure should normally be able to exercise, with the protection, if necessary, of the State.

19. On 19 December 1997, the Permanent Mission of Myanmar to the United Nations Office at Geneva addressed, by name, to the officer assigned by the Office of the High Commissioner for Human Rights to assist the Special Rapporteur a note entitled "Daw Suu Kyi freely fulfils appointment schedule". The note gave a day-by-day account, from 11 to 17 December 1997, of the party members who either visited her or whom she visited, including two foreign diplomats. It is hoped that all restrictions on Daw Aung San Suu Kyi's public and other political activities, meetings and addresses will soon be lifted in order that she may exercise her civil and political rights freely and completely.

20. The initiation of a dialogue between the authorities and the NLD would appear to be having a difficult and uneasy beginning. On 18 December 1997, the SPDC, led by the Minister for Home Affairs, held a meeting with five Central Executive Committee (CEC) members of the NLD. The communication of 19 December 1997 referred to above included a note regarding the purpose of that meeting. According to the note, "the meeting was initiated by the Minister for Home Affairs with the aim of creating better understanding and cooperation between the NLD and the State Peace and Development Council". At the meeting, the SPDC "cordially advised the NLD CEC members to refrain from creating conditions in which the authorities concerned [would be] inevitably forced to take necessary actions against the NLD party". The Special Rapporteur has no information regarding the views of the representatives of the NLD with regard to the meeting.

21. From such information as is available to the Special Rapporteur to date, this was the first meeting between governmental representatives and the NLD since the Government was reconstituted on 15 November 1997. The last time NLD officials met government leaders was in July 1997, when NLD Chairman U Aung Shwe and two Central Executive Committee members met SLORC Secretary One Lieutenant-General Khin Nyunt to discuss political issues. In mid-September 1997, high officials of SLORC invited representatives of the NLD for discussions. The meeting did not take place, apparently owing to a difficulty which arose concerning the acceptance by the authorities of the General Secretary of the NLD as part of the delegation, which the NLD had decided should be the case. It is to be hoped that, in future, the NLD will be free to decide how its own delegations should be constituted.

22. The Special Rapporteur hopes that serious discussions will continue and will take place in accordance with the basic recommendations made both by the

General Assembly and the Commission on Human Rights with regard to the initiation of a political dialogue with all political parties returned in the elections of 1990, including representatives of ethnic minorities.

23. It is perhaps too early to gauge the nature and extent of the change in the repressive policy vis-à-vis civil and political rights which has been pursued by the regime since the people made their choice in the 1990 elections. However, it is hoped that this most welcome change in attitude on the part of the authorities, however limited it appears to be at present, will continue and broaden the democratic space, permitting the will of the people to be realized. As the Special Rapporteur had occasion to observe in previous reports, the violation of the exercise of political rights is at the root of the violation of most human rights in Myanmar.

C. Extrajudicial, summary or arbitrary executions

24. In his last report to the Commission, the Special Rapporteur addressed the Government's decision to commute death sentences passed between 18 September 1988 and 31 December 1992 to life imprisonment. This year, the officer assigned by the Office of the High Commissioner for Human Rights to assist the Special Rapporteur received a communication from the Permanent Mission of Myanmar about an order issued by the SPDC on 1 December 1997 (Order No. 1/97), entitled "Commutation and remission of sentences". It states, inter alia:

> "2. In respect of citizen prisoners undergoing death sentence, imprisonment for a term of an unlimited period, transportation for life or imprisonment for a term exceeding 10 years under orders passed by a civil court, military court or military tribunal, the respective sentences which they are undergoing shall be commuted and remitted as follows:
>
> "(a) to commute death sentence to transportation for life (imprisonment for a term of 20 years) for those prisoners undergoing the said sentence;
>
> "(b) to remit the imprisonment ranging from a term exceeding 20 years to imprisonment for a term of an unlimited period to imprisonment for a term of 15 years for those prisoners undergoing the said sentence;
>
> "(c) to commute the sentence of transportation for life to a term of 10 years for those prisoners undergoing the said sentence;
>
> "(d) to remit the imprisonment ranging from a term exceeding 10 years to a term of 20 years according to each offence to imprisonment for a term of 10 years according to each offence for those prisoners undergoing the said sentence.
>
> "3. The Order, which has the force of law, applies to sentences passed before 15 November 1997.

"4. The commutation and remission of sentences under this Order s not effect the period to which the prisoner concerned is ordinarily entitled."

The Special Rapporteur notes with satisfaction that one of the early acts the SPDC has been to commute death sentences, a sign of progress in the protection of the right to life.

25. The Special Rapporteur has had no indication that there exists an explicit or systematic government policy of encouraging summary execution However, he is greatly concerned by the frequent allegations of arbitrary killings of civilians and insurgents by members of the Tatmadaw under a variety of circumstances, in violation of the right to life contained in article 3 of the Universal Declaration of Human Rights. The right to lif the character of jus cogens binding on all States under all circumstances without any exception. The following allegations, among many others, exemplify the reports received by the Special Rapporteur:

(a) On 7 June 1997, three villagers from Wan Kyawng, Murngpan township, Shan state, were allegedly beaten to death by troops of Light Infantry Battalion (LIB) No. 332 from Murngpan. The three reported victi were Loong Za Li, Loong Nan Ta, and Sai Ta;

(b) On 13 June 1997, five villagers from different villages in Murngpan township were reportedly beaten to death by LIB No. 332 troops f Murngpan. The five reported victims were Pannya from Nam Maw Mon village Loong Pae from Nawng Harn village, Pa Kao from Wan Kung village, Su Nan T from Loi Noi village, and Su Na Ta from Long Kaeng village.

26. The Special Rapporteur on extrajudicial, summary or arbitrary execut has, during the last year, transmitted three communications to the Governm of Myanmar regarding allegations of violations of the right to life. One communication concerned three Karenni living in a refugee camp in Thailand were allegedly killed on 3 January 1997 by members of the armed forces. Another communication concerned three other refugees reportedly executed, 28 and 29 January 1997, in refugee camps in Thailand by members of the Democratic Karen Buddhist Army (DKBA), a Karen militia group alleged to be backed by SLORC. The third communication concerned the arbitrary executio of two Shan farmers committed on 30 October and 13 November 1996 by the Tatmadaw. The replies of the Government and the observations of the Spec Rapporteur on extrajudicial, summary or arbitrary executions are containe document A/CN.4/1998/68/Add.1, paragraphs 285-288.

27. Given the great number of allegations of summary or arbitrary executions, in addition to violations of other basic rights, as reported previous reports of the Special Rapporteur, and given the continuing flow similar allegations, particularly in areas where ethnic minorities live, of the utmost importance that the authorities conduct a high-level inquir with broad terms of reference. It is true that most of the acts are alle to have been perpetrated by the rank and file. Nevertheless, if the allegations are well-founded, the acts could not have been committed with the orders of field superiors.

D. Arbitrary detention

28. During 1997, reports indicated that NLD members and sympathizers, as well as other persons involved in political activities, continued to be constantly harassed and some of them arbitrarily arrested and detained when exercising their rights to freely express their views, to assemble or to hold rallies.

29. On 27 June 1997, the Special Rapporteur, together with the Special Rapporteur on the question of torture, transmitted an urgent appeal to the Government of Myanmar seeking clarification with regard to allegations of arbitrary arrest and torture (see E/CN.4/1998/38/Add.1, para. 255). The Special Rapporteur notes that the International Committee of the Red Cross (ICRC) is still not allowed uninhibited access to prisons and places of detention.

30. The urgent appeal referred to the arrest, on 13 June 1997, of two Executive Committee members of the Federation of Trade Unions-Burma and their families by the National Intelligence Bureau. U Myo Aung Thant, who is also a member of the All Burma Petro-Chemical Union, is said to have been detained along with his wife and children at Mingaladon international airport in Yangon. U Khin Kyaw, who is also an official of the Seamen's Union of Burma and an affiliate of the International Transport Workers' Federation (ITF), was reportedly detained along with his wife at his home. He had allegedly been tortured and his wife had allegedly been sexually abused during a previous detention in 1993. Fears had been expressed that U Myo Aung Thant and U Khin Kyaw and their detained family members might be subjected to torture or other ill-treatment during their present detention.

31. The urgent appeal also referred to reports received by both Special Rapporteurs according to which the following members of NLD have been detained since 13 June 1997: Khin Maung Win (also known as Ko Sunny, the official video-photographer for the NLD), Cho Aung Than (a relative of and former assistant to NLD General Secretary Daw Aung San Suu Kyi); Daw Khin Ma Than (the sister of Cho Aung Than); U Shwe Myint Aung (the husband of Cho Aung Than) and U Ohn Myint (an NLD adviser who is over 80 years of age).

32. On 24 July 1997, the Government of Myanmar responded that the seven above-named persons (correcting the names of Daw Khin Ma Than and U Shwe Myint Aung to Nge Ma Ma Than and U Swe Myint Aung, respectively) were said to have been found to be involved in terrorist activities. They had been planning bomb attacks on foreign embassies and residences of State leaders, the blowing up of transformers and the cutting of telephone lines, as well as the incitement of workers. Cho Aung Than was said to have been involved in making appointments for foreigners to meet Daw Aung San Suu Kyi. Myo Aung Thant, Nge Ma Ma Than and Cho Aung Than were said to have secret contacts with foreigners to send financial aid to Daw Aung San Suu Kyi. Myo Aung Thant, Nge Ma Ma Than, Cho Aung Than, Khin Maung Win and U Ohn Myint were said to have participated in producing and smuggling a film of Daw Aung San Suu Kyi in Kayin national dress for a charity show for refugees in Bangkok. The Government of Myanmar added that there was no ground for concern that the persons detained would face ill-treatment while in detention since torture and

other cruel, inhuman or degrading treatment were prohibited by relevant laws and regulations in Myanmar which were scrupulously followed by the authorities concerned.

33. On 4 November 1997, the two Special Rapporteurs transmitted another urgent appeal to the Government of Myanmar seeking clarification concerning eight persons, seven of whom are said to be leading members of the NLD, who were reportedly arrested by security forces in the night of 28/29 October 1997 (see E/CN.4/1998/38/Add.1, para. 256).

34. The arrests allegedly occurred following attempts to hold a meeting with Daw Aung San Suu Kyi at the NLD Mayangone township office on the outskirts of Yangon. The meeting was reportedly planned for the morning of 28 October, but security forces are said to have set up barricades, preventing it from taking place. A number of NLD supporters were reportedly arrested but subsequently released. The following eight persons are still believed to be detained: Daw May Win Myint (NLD Divisional Organizer and MP-elect from Mayagone), Khin Maung Myint (NLD Central Youth member and Secretary of Latha township), Daw San San (NLD Seikkan Divisional Vice-Chairman and NLD women's leader), Win Win Htay (member of the Yangon NLD Youth Division), U Soe Myint (Chairman of the Thaketa NLD), Dr Than Nyein (MP-elect from Kyauktan township), U Win Thaung (Chairman of the Mayangone NLD office), U Mya Thaung (landlord of the Mayangone NLD office). Some are also said to have had documents taken from them. They were reportedly arrested by security forces, including military intelligence forces, and taken to an unknown place. Fears had been expressed that they might be subjected to torture or other ill-treatment while in detention.

35. Although the Government of Myanmar did not respond specifically to the letter sent by the Special Rapporteurs, the officer assigned by the Office of the High Commissioner for Human Rights to assist the Special Rapporteur received from the Permanent Mission of Myanmar Official Information Sheet No. A-0241 dated 10 December 1997, which provided information about these cases. It states as follow:

> "On 9 December 1997, the Special Court of Insein Rehabilitation Centre passed sentences on the following (7) persons from NLD who have been charged with section 5 (j) of the Emergency [Provisions] Act of 1950. [international harm to the morals or conduct of the public or a section of the public in a manner likely to impair the security or restoration of law and order of the Union]:
>
> (a) Dr. Than Neyin
>
> (b) U Soe Myint
>
> (c) U Win Thaung
>
> (d) U Nyan Thaung
>
> (e) Daw May Win Myint

(f) Ma Win Win Htay

(g) U Khin Maung Myint

"The court found the accused (6) persons guilty of section 5 (j) of the Emergency [Provisions] Act of 1950 and U Khin Maung Myint was found guilty of both section 5 (j) of the Emergency [Provisions] Act of 1950 and section 16 (a) of 1986 Gambling Law. The court has sentenced Dr. Than Neyin, U Soe Myint, U Win Thaung, U Nyan Thaung, Daw May Win Myint, Ma Win Win Htay to (6) years' imprisonment and U Khin Maung Myint (8) years' imprisonment, it is learnt."

36. According to information received by the Special Rapporteur, the accused have been denied their right to retain lawyers for their defence and were not allowed to defend themselves in hearings held on 2 December 1997.

37. On 6 November 1997, Dr. Min Soe Lin, an elected member of parliament and Secretary-General of the banned Mon National League for Democracy (MNLD), was reportedly arrested under section 5 (j) of the Emergency Provisions Act for his role in organizing celebrations for the fiftieth Mon National Day on 23 February 1997. Dr. Min Soe Lin was arrested in Mudon, Mon state, but it is not known where he has been taken for detention or under what conditions he is being held.

38. On 19 November 1997, the Myanmar authorities reportedly arrested Thaung Aye and Chit Khin. Thaung Aye, an owner of a building in the South Okkalapa township of Yangon, had reportedly been arrested because he agreed to rent an office to the NLD. Chit Khin is the Chairman of the Okkalapa branch of the NLD.

39. The Working Group on Arbitrary Detention on 11 July 1997 transmitted a communication to the Government of Myanmar concerning a case of detention which was reported to have occurred in Myanmar. In accordance with its methods of work, the Working Group has adopted, on 2 December 1997, Opinion No. 20/1997, the text of which is contained in document E/CN.4/1998/44, annex II. A summary of the case appears below.

40. After having been released from detention through an amnesty on 4 February 1995, Khin Sint Aung, aged 61, medical doctor and member of the NLD, was rearrested on 23 July 1996 for recent activities in support of the opposition. He had previously been arrested on 3 August 1993 and sentenced on 15 October 1993 to 20 years in prison for destabilizing national unity, printing and publishing material without official registration and improper use of official secret documents. Dr. Khin Sint Aung's case had already been transmitted by the Working Group to the Government in April 1994. The Working Group, by its Decision No. 13/1994, declared his detention to be arbitrary. His rearrest was believed to be related to his membership of the NLD.

41. The Government informed the Working Group and the Special Rapporteur that Dr. Khin Sint Aung had been convicted in 1993 under section 5 (j) of the Emergency Provisions Act, section 17/20 of the Printers and Publishers Registration Law, and section 5 (1) (4) of the Burma Official Secrets Act. The Government added that Dr. Khin Sint Aung had been granted amnesty under

section 401 (1) of the Criminal Procedure Code, after he had been given a solemn pledge to the authorities that he would henceforth abide by the law. But, the Government added, Dr. Khin Sint Aung did not abide by his pledge and, as a consequence, the amnesty extended to him was revoked and he resumed serving the reminder of his original sentence.

42. The source of the information, in its observations on the Government's reply, reiterated its view that Dr. Khin Sint Aung's detention was based solely on the exercise of his right to free expression. The charges against him were believed to be specifically related to letters he sent to NLD members during the January 1993 NLD National Convention.

43. The Working Group, in its Decision No. 13/1994 declaring Dr. Khin Sint Aung's detention to be arbitrary, noted that the Government had failed to specify in what way he failed to abide by his pledge, what the activities were that led to the revocation of the amnesty extended to him, and in what way they constituted a violation of the pledge.

44. The Working Group held that the renewed detention of Dr. Khin Sint Aung, like the first one, was linked to the fact that he peacefully exercised his right to freedom of opinion and expression. Accordingly, the Working Group concluded as follows: "The deprivation of liberty of Khin Sint Aung is arbitrary, as being in contravention of articles 9 and 19 of the Universal Declaration of Human Rights, and falls within category II of the categories applicable to the consideration of the cases submitted to the Working Group." The Working Group consequently requested the Government to take the necessary steps to remedy the situation, and bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights. The Working Group further recommended that the Government take steps to become a party to the International Covenant on Civil and Political Rights.

45. With regard to the particular case of Dr. Khin Sint Aung, the Special Rapporteur wishes to recall the previous reports of his predecessor, Professor Yozo Yokota, to the Commission on Human Rights (E/CN.4/1994/57) and (E/CN.4/1995/65) in which the case was mentioned. When Professor Yokota visited Myanmar in 1993 and 1994, he personally met Dr. Khin Sint Aung in Insein prison.

46. In 1993, when Professor Yokota met Dr. Khin Sint Aung, he was accompanied by the prison warden and his staff and by photographers. Dr. Khin Sint Aung addressed the Special Rapporteur in the Burmese language, as he clearly indicated he had been advised to do, although he had done his medical training in England and spoke English well. Dr. Khin Sint Aung told the Special Rapporteur that those who met the Special Rapporteur would have problems and would be likely to be sentenced to 10 years' imprisonment. He therefore must be careful how he answered the Special Rapporteur's questions: if he answered "wrong", his 20-year prison sentence would become 40 years. He also said that the grounds for his imprisonment were prescribed by existing laws; information in that regard could be obtained from the Government. He said he had been tried in a special court, i.e. not an ordinary court. It was by his own choice that he did not hire a lawyer because he wanted to defend himself. He had received his sentence recently and was intending to appeal through the proper channels. Dr. Khin Sint Aung indicated that he was treated

well in the prison and had even received a new tooth in his first week there. In concluding, he repeated that he did not want to be in prison for 40 years, and so he preferred to say no more.

47. In 1994, Professor Yokota again met Dr. Khin Sint Aung in Insein prison. He was not allowed to enter the cell where the prisoner was kept but he was able to speak to him through the locked grill of the cell door. The prison warden and several guards recording the interview were also present, as well as photographers. The interview was very short and the prisoner seemed nervous but in good health. Unlike their meeting in 1993, Dr. Khin Sint Aung addressed the Special Rapporteur in Burmese and English. In 1993, he had indicated that he intended to appeal through the proper channels. He now informed Professor Yokota that he had not appealed but did not give any specific reason why he had changed his mind. In concluding, he repeated that he would like from the bottom of his heart to serve a democratic Government.

48. As the Special Rapporteur has had occasion to observe, there are laws in Myanmar that criminalize the normal exercise of basic civil and political rights (see A/51/466, annex, chaps. III and IV). All the persons convicted or detained under these laws are, in a true sense, political prisoners. The SPDC should take urgent steps to have those persons released by proclaiming a general amnesty.

E. Torture and cruel, inhuman or degrading treatment or punishment

49. The Special Rapporteur continues to receive numerous allegations of acts of torture committed by soldiers of the Tatmadaw. The Special Rapporteur has already reported on some of these cases in his previous reports to the General Assembly and the Commission on Human Rights.

50. The Special Rapporteur on the question of torture has also raised with the Government of Myanmar several cases of alleged torture. By letter dated 21 February 1997, he informed the Government of Myanmar about reports indicating that the Myanmar army still uses torture and ill-treatment against members of ethnic minorities in Shan and Mon states and in Tanintharyi division. According to these reports, members of ethnic minorities are forced to serve as porters for the army. Any person who cannot carry the required load is allegedly beaten with bamboo sticks or rifle butts. Deprivation of food, water, rest and medical care is also reportedly a common method of punishment.

51. In the same letter, the Special Rapporteur also asked the Government of Myanmar to reply to allegations that a number of persons had been beaten by the police during student demonstrations in Yangon in December 1996.

52. On 25 April 1997, the Government of Myanmar replied to the Special Rapporteur stating that nobody had been subjected to violence during the December 1996 student demonstrations. Concerning the allegations of ill-treatment of porters, the Government of Myanmar stated that the recruitment of civilian labour to assist the armed forces is regulated by law and based on three criteria: the person has to be unemployed; physically fit

to work as a porter; and a reasonable wage has to be agreed upon before recruitment. Furthermore, according to the Government, porters were never required to accompany the troops to the battle scene. They were thus not exposed to danger (see E/CN.4/1998/38/Add.1, paras. 258-267).

III. THE GENDER PERSPECTIVE

53. In its resolution 1997/64, the Commission on Human Rights extended the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58, and requested the Special Rapporteur to keep a gender perspective in mind when seeking and analysing information.

54. Gender-specific reporting and analysis entail an examination of gender as a determining factor in respect of: (a) the form which a human rights violation takes; (b) the circumstances in which the violation occurs; (c) the consequences of the violation for the victim; and (d) the availability and accessibility of remedies.

55. The term "gender" is used as referring to the socially constructed role of women and men in public and private life. It denotes the significance attached within societies and communities to sex identity. Historically, different cultures construct gender in different ways so that women's roles, the value that their particular society places on those roles, and the relationship with men's roles may vary considerably over time and from one setting to another. To varying degrees in all societies, discrimination against women and their unequal treatment are systematic and reflected in the structure and functioning of public institutions, de jure and de facto family relations, access to economic resources, and legal systems. It is mainly for this reason that the mere enactment of appropriate laws is not sufficient to eradicate discrimination or inequality on grounds of sex. Othe measures, educational, social and administrative, among others, are particularly necessary to change societal attitudes and acceptance of traditional values.

A. International norms

56. The Government of Myanmar is bound by a number of international conventions and declarations to which it is party to prohibit discrimination against women and to ensure the effective enjoyment of their human rights. A general prohibition against discrimination and unequal treatment is found in article 2 and 7 of the Universal Declaration of Human Rights, according to which "everyone is entitled to all the rights and freedoms ... without any distinction of any kind, such as race, colour, sex ... ." and "all are equal before the law and are entitled without any discrimination to equal protecti of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination." Articles 2 (1), 3 and 26 of the International Covenant on Civil and Political Rights contain a similar prohibition. A more elaborate and explicit prohibition of discrimination against women in all its forms is found in the Convention on the Elimination of All Forms of Discrimination against Women.

57. The traffic of women and suppression of prostitution is regulated in the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, signed by Myanmar on 14 March 1956 but not yet ratified.

58. The Special Rapporteur also recalls the Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104). Article 2 prohibits violence against women (a) in the family, (b) within the general community, and (c) by the State. Article 1 of the Declaration defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

59. The Special Rapporteur welcomes the ratification by Myanmar of the Convention on the Elimination of All Forms of Discrimination against Women. Article 1 of the Convention, which came into force for Myanmar on 21 August 1997, defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field". The Union of Myanmar is required under article 18 of the Convention to submit, within one year, a report to the Committee on the Elimination of Discrimination against Women on the legislative, judicial, administrative and other measures it has adopted to give effect to the Convention and on the progress made in its implementation.

60. In the absence of a visit to Myanmar, the Special Rapporteur is unable to report comprehensively on the situation of women in situ. The following paragraphs highlight some legal provisions and other material which the Special Rapporteur has come across in his work.

61. According to article 22 of the Myanmar Constitution of 1974, which was repudiated by the SLORC in 1988, "all citizens shall be equal before the law, regardless of race, religion, status or sex." In addition, in article 154 the following rights of women are explicitly defined: (a) women shall enjoy equal political, economic, social and cultural rights; (b) mothers, children and expectant mothers shall enjoy those rights as prescribed by law; (c) children born of citizens shall enjoy equal rights; and (d) women shall enjoy the freedoms and rights guaranteed by laws as regards marriage, divorce, division of property, succession and custody of children. It does not appear that, after the repudiation of the Constitution, any law, decree, or order of a basic character has been enacted to guarantee the rights of women provided in the defunct Constitution.

B. Myanmar women in public life

62. As is the case for men, Myanmar women who become politically active are harassed and arbitrarily arrested, especially those who belong to parties or movements in opposition to the regime. There would not appear to be any women in the SPDC, in the Cabinet, or in the 14-member Advisory Group referred to in SPDC Notification No. 3/97 of 15 November 1997.

63. In the note sent by the Permanent Mission of Myanmar referred to in paragraph 19 of this report, a number of meetings of the Central Women's Work Committee are reported to have taken place in the compound of Daw Aung San Suu Kyi between 11 and 17 December 1997. This is an indication that women are active in the political field, at least in opposition.

C. The situation of refugee women

64. The Special Rapporteur has reported on the situation of Myanmar refugees and internally displaced persons in his previous reports. According to testimony received by the Special Rapporteur, many of the refugees reported about in his report to the General Assembly (A/52/484) fled in order to escape forced labour, portering and starvation. The situation of nursing mothers or women with young children is particularly harsh. There is no doubt that refugee women, particularly those on their own, are more vulnerable than men to exploitation and deprivation of rights at every stage of their flight. The Special Rapporteur expresses his concern that, according to information received, the flow of refugees continues. In late October and early November 1997 Karen refugees in groups of 50-100 people, mostly women, children and old people, reportedly entered Ban Letongkhu, Ban Thijochi and Ban Kuilertor in Umphang, about two kilometres from the border with Thailand. Myanmar troops had started to round up and send Karen civilians to a controlled area away from the border.

D. Women and forced labour

65. In recent years, increasing numbers of women, including young girls and the elderly, have been forced to work on infrastructure projects and to act as porters in war zones. Such uncompensated forced labour continues despite Myanmar's ratification of ILO Convention No. 29 Concerning Forced or Compulsory Labour. The Special Rapporteur has on several occasions reported on the use of forced labour for various development and infrastructure projects. In these projects women are not spared forced recruitment, even when they are pregnant or nursing their infants. Those who are too weak for the strenuous work have to hire another person or face a fine. On the work site, the forced labourers do not receive appropriate medical treatment. Further, they are reported to receive no remuneration and have to provide their own food. While away the women cannot work on their farms, which results in food shortages for the family. On the work site women, like men, risk exhaustion, accidents and lack of medical treatment. They are also victims of many other serious human rights violations, such as beatings, rape and murder.

66. The Special Rapporteur has on more than one occasion reported on forced portering. As porters women are more vulnerable than men, since they have been reported to have been used as (a) forced labour to work as porters; (b) human shields; and (c) entertainment for soldiers, which often ends in rape. For instance, on 8 June 1997, SLORC troops from Murngpan allegedly arrested 17 villagers (10 men and 7 women) at Ter Hung village and forced them to carry military supplies from Kaeng Twang area to Murngpan. When they reached Murngpan, the men were released while the women were detained. During the night all the women were reportedly gang-raped before being released the next morning.

67. The Special Rapporteur is concerned that real access to the justice system by the victims is virtually non-existent.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

68. The Special Rapporteur regrets that, in spite of his continuing efforts to obtain the authorization of the Government of Myanmar to visit the country and in spite of the encouraging statements made by the Permanent Representative of Myanmar, both in the Commission on Human Rights and the General Assembly, he has not so far obtained any response. In this regard, the criticism levelled by the authorities against the reports of the Special Rapporteur is, in large part, based on the ground that the reports rely on information received from outside the country and do not reflect the actual situation in Myanmar. It stands to reason that, if the General Assembly and the Commission are to benefit from an assessment of that criticism, the agreement of the Myanmar authorities to a visit by the Special Rapporteur is essential.

69. The Special Rapporteur has observed the beginnings of a positive attitude with respect to the easing of restrictions on political parties, especially in relation to the activities of the NLD and its right to hold meetings. This change on the part of the authorities is welcome. However, it would appear that this change is of a purely formal and limited nature given the virtually complete control which the authorities seem to exercise on the freedoms of association, assembly and expression. The Special Rapporteur notes that the absence of respect for the rights pertaining to democratic governance continues to be at the root of all the major violations of human rights in Myanmar insofar as this absence is inherent in a power structure which is autocratic and accountable only to itself, thus resting on the denial and repression of fundamental rights. The Special Rapporteur concludes that genuine and enduring improvements in the situation of human rights in Myanmar cannot be attained without respect for the rights pertaining to democratic governance. In this regard, he notes with particular concern that the electoral process initiated in Myanmar by the general elections of 27 May 1990 has still, after seven years, to reach its conclusion and that the Government still has not implemented its commitment to take all necessary steps towards the establishment of democracy in the light of those elections.

70. On the basis of his examination of the situation of human rights in Myanmar over the past year, the Special Rapporteur has unfortunately come to the general conclusion that, except for the apparent easing of restrictions on political activities as referred to in paragraph 69, there has been no change in that situation since his last report to the General Assembly and to the Commission on Human Rights. The resolutions of the General Assembly and of the Commission have gone largely unheeded by the Government of Myanmar. The result is that the conclusions of the Special Rapporteur as contained in his reports to the General Assembly at its fifty-second session (A/52/484, annex, paras. 143-151) and the Commission on Human Rights at its fifty-third session (E/CN.4/1997/64, paras. 101-107) remain substantially the same, except for the fact that, according to certain reports, a meeting took place in mid-July 1997

between a representative of SLORC and an official of the NLD. There have been suggestions that the substance of those discussions was political in character but the Special Rapporteur has no concrete information in this regard.

71. The well-documented reports, photographs and testimonies received by the Special Rapporteur lead him to conclude that extrajudicial, summary or arbitrary executions, the practice of torture, portering and forced labour continue to occur in Myanmar, particularly in the context of development programmes and of counter-insurgency operations in minority-dominated regions.

72. With regard to arbitrary arrest and detention, the Special Rapporteur does not doubt that such violations take place on a wide scale if for no other reason than that an examination of the laws in place show that such violations are legal and may easily occur. At the same time, the absence of an independent judiciary, coupled with a host of executive orders criminalizing far too many aspects of normal civilian conduct, prescribing enormously disproportionate penalties and authorizing arrest and detention without judicial review or any other form of judicial authorization, leads the Special Rapporteur to conclude that a significant percentage of all arrests and detentions in Myanmar are arbitrary when measured by generally accepted international standards. In this regard, the Special Rapporteur expresses his deep concern at the continued detention of many political prisoners, in particular elected representatives, and the continuing arrests and harassment of supporters of democratic groups in Myanmar.

73. Because of both visible and invisible pressures, the people of Myanmar live in a climate of fear in which whatever they or their family members may say or do, particularly in the exercise of their political rights, involves the risk of arrest and interrogation by the police or military intelligence. The Special Rapporteur notes that NLD leaders cannot assemble in a group, cannot freely discuss, and cannot publish or distribute printed or video material. In this situation it is difficult to assume that open discussion and free exchanges of views and opinions can possibly take place in Myanmar, unless they are in support of the military regime.

74. Turning to freedom of movement and residence in Myanmar, including the right to leave and re-enter one's own country, the Special Rapporteur concludes that there are clear violations of those freedoms in both law and practice. Specifically, severe, unreasonable and, in the case of the Muslim Rakhine population, racially based restrictions are placed on travel inside the country and abroad. On the matter of internal deportations and forced relocations, the Special Rapporteur concludes that the Government's policy violates freedom of movement and residence and, in some cases, constitutes discrimination based on ethnic considerations.

75. In his report to the General Assembly, the Special Rapporteur analysed the laws relating to citizenship and their effect on the exercise of civil and political rights. He raised serious questions of the consistency of those laws with generally accepted international norms, since those laws appear to be discriminatory on the basis of ethnicity, fail to ensure equality before the law, and do not provide special measures of protection to which children are entitled. In the short term, this situation produces serious violations of the rights of both minorities and other persons living in the country as

well as a sense of not belonging to Myanmar. In the long term, the situation is likely to discourage a sense of national unity and to encourage and exacerbate secessionist movements likely to be destructive of a multi-ethnic and multi-religious nation. Sheer repression following efforts at ceasefire agreements would not appear to be the answer.

76. The Special Rapporteur welcomes the ratification by Myanmar of the Convention on the Elimination of All Forms of Discrimination against Women in 1997. In this regard, he hopes that the Government of Myanmar will also ratify the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, signed by Myanmar on 14 March 1956.

B. Recommendations

77. In the light of the foregoing conclusions, the Special Rapporteur submits the following recommendations.

78. To ensure that the institutions of government genuinely reflect the will of the people, in conformity with article 21 of the Universal Declaration of Human Rights, steps should be taken to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to the democratically elected representatives. The institutions of the Union of Myanmar should be such as to ensure that the executive authorities are accountable to the citizenry in a clear and meaningful way. Furthermore, steps should also be taken to restore the independence of the judiciary and to subject the executive to the rule of law and render unjust and unjustifiable actions justiciable.

79. All necessary measures should be taken to accelerate the process of transition to a democratic order and to involve in a meaningful way in that process the representatives duly elected in 1990. In this regard, genuine and substantive discussions should take place without further delay between the present military regime and the leaders of the National League for Democracy and with other political leaders who were duly elected in the democratic elections of 1990, including representatives of the ethnic minorities. Certain steps taken in July 1997 by the SLORC, and in December 1997 by the SPDC, to initiate such discussions are a welcome and positive development, but one which requires to be intensified. The SPDC should do all it can to ensure that the character and substance of the discussions are genuine and are perceived to be so by all the participants and the people generally. In addition, political parties should be free to decide the composition of their own delegations for the purposes of the dialogue.

80. Immediate measures should be taken to put an end to the harassment of the leaders and the members of the National League for Democracy, to ensure that the General Secretary of the National League for Democracy is genuinely free and able to exercise her functions without fear of attack, and to ensure that all political parties are able freely to carry out their activities. In other words, the present embargo or recess on the exercise of political

rights, which is rigidly enforced by exceptional legal and administrative machinery, should be ended. Political "détente" should replace the political embargo by way of a general amnesty or otherwise.

81. All political detainees, including elected political representatives, students, workers, peasants and others arrested or detained under martial law for the exercise of their normal civil and political rights after the 1988 and 1990 demonstrations or as a result of the National Convention should be immediately released. The Government should also ensure that there are no acts of intimidation, threats or reprisal against them or their families and should take appropriate measures to compensate all those who have suffered arbitrary arrest or detention.

82. Constitutionality and the rule of law should be re-established and orders and decrees should no longer be the basis of law. All laws rendering violations of human rights legitimate should be repealed urgently and all laws should be given due publicity. The laws in Myanmar should be brought into conformity with international standards regarding the rights relating to protection of physical integrity, including the right to life, protection against disappearance, prohibition of torture and cruel, inhuman or degrading treatment, providing humane conditions for all persons under detention and ensuring the minimum standards of judicial guarantees.

83. Particular attention should be given to conditions in the country's prisons and all the necessary steps taken to allow international humanitarian organizations to have access thereto and to communicate freely and confidentially with prisoners.

84. Urgent steps should be taken to facilitate and guarantee the enjoyment of the freedoms of opinion, expression and association, in particular by decriminalizing the expression of opposition views and by relinquishing government controls over the media and literary and artistic works.

85. Restrictions relating to the entry and exit of citizens into and out of the country, as well as their movement within the country, should be abolished.

86. All discriminatory policies which interfere with the free and equal enjoyment of property should cease and adequate compensation should be paid to those who have been arbitrarily or unjustly deprived of their property.

87. The Government of Myanmar should fulfil its obligations under ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize of 1948. In compliance with this Convention, it should guarantee by law the right of trade unions to exist and operate freely. In that respect, the Government of Myanmar is encouraged to cooperate more closely with the ILO through a technical cooperation programme so that the very serious discrepancies between the law and the practice on the one hand, and the Convention on the other hand, are eliminated urgently.

88. The Government of Myanmar is urged to comply with its obligations under ILO Convention No. 29, prohibiting the practice of forced labour. In this connection, the Government of Myanmar should urgently take the appropriate

measures to repeal the offending legal provisions under the Village Act and the Towns Act to halt the practice of forced labour. The Government of Myanmar is encouraged to cooperate with the Commission of Inquiry established by the ILO.

89. Urgent steps should be taken to put an end to the enforced displacement of persons and to create appropriate conditions to prevent the flow of refugees to neighbouring States. In the event that the relocation of villagers becomes necessary in circumstances which are in conformity with international norms, proper consultations should take place with the villagers, including the payment of appropriate compensation, reviewable by independent courts, and the taking of measures to ensure that food, housing facilities, proper medical care and social amenities, including appropriate arrangements for the education of children, are provided in adequate measure in the interest of the displaced persons.

90. The Government of Myanmar should refrain from actions which contribute to insecurity affecting the population, such as the use of military force and bombardments against civilian targets along the border with Thailand. In this regard, given the great number of allegations of summary or arbitrary executions and other grave human rights violations, particularly in areas where ethnic minorities live or to which they are being forcibly displaced, it is of the utmost importance that the new government conduct a high-level inquiry with broad terms of reference, specifically to gauge the extent of the violations and to propose remedial measures.

91. In order to promote repatriation of the Myanmar Muslims and other minorities, the Government should create the necessary conditions of respect for their human rights. The Government should ensure, in law and in practice, their safe return and resettlement in their villages of origin. To this end, it should also promote their complete civil, political, social, economic and cultural participation in Myanmar without restriction or discrimination.

92. The laws relating to citizenship should be revised in order to ensure that they have no unfavourable incidence on the exercise of civil and political rights and to be consistent with generally accepted norms. In particular these laws should be substantially revised so as to remove all discriminatory features based on ethnicity, legal status and adverse impact on the right of children to have a nationality. Further, necessary measures should be adopted by the administration to ensure that citizenship can be obtained without burdensome and unrealistic administrative procedures and requirements. These laws should also be brought into conformity with the principles embodied in the 1961 Convention on the Reduction of Statelessness. Consideration should also be given by Myanmar to ratify that Convention as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

93. Military and law enforcement personnel, including prison guards, should be thoroughly trained and informed as to their responsibility to treat all persons in full accordance with international human rights norms and humanitarian law. Such standards should be incorporated in Myanmar law, including the new constitution to be drafted.

94. Given the magnitude of the abuses, the Government should subject all officials committing human rights abuses and violations to strict disciplinary control and punishment and put an end to the culture of impunity that prevails at present in the public and military sectors.

95. The Government of Myanmar is urged to fulfil in good faith the obligations it has assumed under Articles 55 and 56 of the Charter of the United Nations to take joint and separate action in cooperation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. In this respect, the Special Rapporteur wishes to encourage the Government of Myanmar to adopt, as one of the basic constitutional principles, the provisions of the Universal Declaration of Human Rights, a copy of which should be made widely available in the main languages spoken in Myanmar.

96. The Government of Myanmar should consider accession to the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the two Protocols Additional to the Geneva Conventions of 1949. In the meantime, it should ensure that the principles proclaimed in those international instruments are applied, in order to evidence a firm commitment to the promotion and protection of human rights without discrimination of any kind.

97. The Government of Myanmar should take early steps to amend all existing laws, orders or decrees in order to ensure that its international obligations with regard to the rights of women are effectively implemented, including by the adoption of administrative and other measures as well as the allocation of sufficient funds. In addition, in the drafting of a new constitution, steps should be taken to ensure that the rights of women with regard to equality and non-discrimination are guaranteed by the enactment of basic provisions.